

Before the Federal Communications Commission
Washington, D.C. 20554

18 August 2005

Research In Motion Limited
295 Phillip Street
Waterloo, Ontario N2L 3W8

Re: WT Docket No. 01-309

Dear Sir or Madam:

Research In Motion Limited (“RIM”) is pleased to comment on the proposed rulemaking to narrow the de minimis exception, as set out in the Order on Reconsideration and Further Notice of Proposed Rulemaking. The proposed rules relate to the Hearing Aid Compatibility Act of 1988 (“HAC Act”), and are detailed in the Report and Order in the Matter of Section 68.4(a) of the Commission’s Rules Governing Hearing Aid-Compatible Telephones and the Order on Reconsideration and Further Notice of Proposed Rulemaking released June 21, 2005.

In this submission, RIM respectfully requests that the Commission refrain from narrowing the de minimis exception from two to one so as to exempt from the hearing aid compatibility requirements those wireless carriers, service providers and handset manufacturers that offer one digital wireless handset per air interface. RIM believes that narrowing the de minimis exception could produce undesirable outcomes and disadvantage certain manufacturers. There are three main issues.

Higher Standards for Smaller Manufacturers

First, RIM believes that narrowing the de minimis exception would set a higher standard of compliance for smaller manufacturers than for larger ones. Under the proposed narrow exception, a manufacturer offering two handsets per air interface would be required to have two HAC compliant handset(s), or 100% of its portfolio, in that air interface. At the same time, manufacturers offering many handsets per air interface would not even be required to meet a 50% target until February 18, 2008. Setting a higher bar for smaller manufacturers is clearly not the intent expressed by the Commission in its original Report and Order on this subject.

Confusion Due to Product Life Cycles

Second, narrowing the de minimis exception from two handsets to one may make the de minimis exception confusing or even meaningless, due to the nature of product life cycles. Consider a small manufacturer committed to supplying only one handset to carriers on an ongoing basis but also committed to introducing a new model every eighteen months. Experience shows that there is generally a period of at least three

months during which the older and newer products are both available in the market as carrier inventories clear and manufacturer shipments build, respectively. Under the proposed narrow rule, manufacturers that plan to offer only one handset would in reality come into and out of de minimis status on a periodic basis. To stay on-side, they would have to either supply 100% compliant handsets or make sure that inventories of old handsets are completely cleared from carrier shelves before shipping any new models. In this real-world case, a small manufacturer engaged in normal business practices would find that the narrower de minimis rule either (a) provides no relief or (b) induces uneconomic behavior.

No Provision for New Air Interfaces

RIM also notes that the proposed change does not take into account the possibility of a new air interface, such as UMTS, becoming commercially available. A narrow de minimis exception could limit the number of handsets initially offered in any such new air interface even by larger manufacturers since the practical effect of the proposed rule is that the first two handsets offered by firms of any size would have to be compliant. This would serve to discourage market entry, retard technological progress and limit competition.

Conclusion

RIM commends the Federal Communications Commission ("Commission") for clarifying that the de minimis exception of the new rules on Hearing Aid-Compatible Mobile Handsets will apply on a per - air interface basis. RIM also reiterates its commitment to the goals of access to telecommunications services for individuals with hearing disabilities. At the same time, RIM requests that the Commission refrain from narrowing the de minimis exception.

Sincerely,

R.E. Crow

Robert E. Crow
Director, Government and University Relations
Research In Motion Limited